

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:05MJ2114 AGF
)	
DARION LAMONT MITCHELL,)	
)	
Defendant.)	

**ORDER FINDING PROBABLE CAUSE
AND ORDERING PRETRIAL DETENTION**

On August 11, 2005, Defendant was charged in a one count criminal complaint with being a felon in possession of a firearm, in violation 18 U.S.C. § 922(g)(1). The government moved for pretrial detention, and counsel was appointed to represent Defendant.

On August 15, 2005, the Court held a preliminary examination hearing and a hearing on the government's motion for pretrial detention. Defendant appeared and was represented by Assistant Federal Public Defender Caterina DiTraglia. The government was represented by Assistant United States Attorney Raymond M. Meyer. The government presented the testimony of Officer Michael Mueller, an officer with the Metropolitan St. Louis Police Department, who is detached to the DEA and is currently assigned to the Most Violent Offenders Program. Based upon the evidence adduced at the preliminary examination, the Court finds probable cause to believe that the offense

charged in the complaint was committed by Defendant, and the Defendant will be held to answer the charges.

With regard to the issue of pretrial detention, neither party had any objections to the Pretrial Services Report (“PSR”) dated August 15, 2005, except Defendant denies that he pointed a firearm at the officer. Subject to the foregoing qualification, the Court adopts and incorporates the information contained in the PSR. Defendant requested that he be released on a \$10,000 secured bond and proffered to the Court that his grandmother’s house could be posted to secure his release.

But the Court notes that the government has presented strong evidence of the charges against Defendant, and that Defendant is now facing substantial penalty if convicted. More importantly, as set forth in the PSR, Defendant has numerous prior convictions, including but not limited to two prior drug convictions and a conviction for burglary. Defendant has previously had several terms of probation revoked for committing a new offense while on probation, previously committed a new offense while on bond, and was on parole at the time of the instant offense alleged in the complaint herein. In addition, Defendant has a history of failing to appear in court, and there is probable cause to believe that Defendant fled from the officers and attempted, aggressively, to prevent his apprehension.

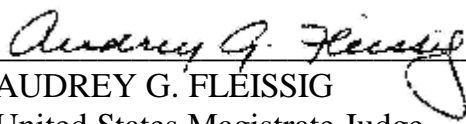
For these reasons, and for the reasons set forth in the PSR and at the hearing, the Court finds, by a preponderance of the evidence and by clear and convincing evidence, respectively, that there is no condition or combination of conditions that will adequately assure the appearance of Defendant and the safety of the community. 18 U.S.C. §

3142(e) and (f). As such, the Court finds that Defendant should be detained pending the trial in this matter.

THEREFORE, IT IS HEREBY ORDERED that Defendant be held to answer any timely filed indictment, and this case is passed to **Friday, September 9, 2005, at 4:00 p.m.**, for a conference on the status of the prosecution before the undersigned United States Magistrate Judge.

IT IS FURTHER ORDERED that Defendant, Darion Lamont Mitchell, be detained pending trial.

IT IS FURTHER ORDERED that Defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; that Defendant be afforded reasonable opportunity for consultation with counsel; and that, on order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility in which Defendant is confined shall deliver Defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.



AUDREY G. FLEISSIG
United States Magistrate Judge

Dated this 15th day of August, 2005.